

There are distinct strategies to make spectrum available for 5G. The U.S. plan creates three overlapping access regimes for the 3.55 – 3.7 GHz band:

¥ incumbent Fixed Satellite Services (FSS) with reception rights fixed and immutable;

¥ Priority Access Licenses (PALs) delivering exclusive rights of access (secondary to incumbent FSS users) and sold at auction, but in very small geographic areas (Census Tracts) and for very short terms (2-3 years);

¥ unlicensed, non-exclusive access rights (GAA) regulated by power limits and exclusion zones.

The tri-level scheme is advanced by Paul Milgrom, Eric Posner, and others as a major improvement over standard property bundles, eliminating transaction costs and monopoly hold-ups. But the proffered “market failure” and its asserted policy fix mimic the Pigouvian welfare analysis that Coase famously revealed to be a product of asymmetric assumptions.

Meanwhile, EU policy seeks to auction unencumbered, nationwide, long-lived, liberal licenses granting exclusive access to 3.4 to 3.8 GHz. This property approach reduces borders and, therefore, transaction costs. A comparison of the evolving systems should test the theoretical arguments made for narrow v. broad resource ownership rights. That the applications are nested in wireless markets yields historical continuity in Coasean thinking about property rights and public policy.